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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,354	02/11/2002	Craig A. Scheer	SCATP001	5742
25920	7590	11/03/2003	EXAMINER	
MARTINE & PENILLA, LLP 710 LAKEWAY DRIVE SUITE 170 SUNNYVALE, CA 94085			TADESSE, YEWEBDAR T	
		ART UNIT	PAPER NUMBER	
		1734		

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

ebo

Office Action Summary	Application No.	Applicant(s)	
	10/074,354	SCHEER ET AL.	
	Examiner Yewebdar T Tadesse	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-26 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) 12-23 is/are allowed.
 6) Claim(s) 24-26 is/are rejected.
 7) Claim(s) ____ is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 24-26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Sun et al (US 2002/0100416 A1).

As to claims 24-25, Sun et al discloses (see Fig 1 and page 4, paragraph 0041) a particle deposition system, comprising an atomizer (11) for providing a flow of gas containing particles; a flow control device (three-way valve 42) coupled in flow communication with the atomizer; a differential mobility analyzer (DMA) coupled in flow communication with the flow control device; and a deposition chamber (15) coupled in flow communication with the flow control device and the DMA wherein the particles in the flow of the gas containing the particles are to be filtered by the DMA, the flow control device (42) directs the flow of gas containing particles toward the DMA, and when the particles in the flow of the gas containing particles are not to be filtered by the DMA, the flow control device (three-way valve 42) directs the flow of the gas containing the particles toward the deposition chamber (15).

As to claims 26, Sun et al discloses (see page 4, paragraph 0041) when the particles in the flow of the gas containing the particles having a size that is not larger than 1.5 microns (smaller than 30-50 nm), the flow control device directs the flow of the gas containing the particles towards the DMA, and when the particles in the flow of the gas containing the particles having a size that is larger than 1.5 micron (within the range of 500-4000 nm), the flow control device directs the flow of the gas containing the particles toward the deposition chamber.

Allowance

3. Claims 12-23 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: It is agreed (see Applicant's argument pages 6-7) that Sun et al does not disclosed a particle deposition system with a conduit as specified in the applicant's independent claim 12, having a first and a second branch, coupled to the inlet of the deposition chamber (110). Prior art of record does not disclose or suggest a particle deposition system comprising, among others, a conduit coupled to the inlet of the deposition chamber, the conduit having a first and a second branch, wherein a particle counted disposed in the first branch of the conduit, an orifice disposed in the second branch of the conduit and a vacuum in flow communication with the first and the second branches of the conduit.

Response to Arguments

5. Applicants' arguments filed 08/18/2003 have been fully considered, examiner withdraw the art rejection of claims 12-23 over Sun et al. However, the art rejections of claims 24-26 over Sun et al are sustained. Applicants inform the examiner (see argument page 7) that an evidence or appropriate declaration will be submitted in a supplemental response. This declaration has not yet been received by the office showing that applicants had possession of the claimed invention before the effective date of the sun et al. It is recommended that the applicants submit this evidence in response to this action for consideration.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1734

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (703) 305-3539. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Yewebdar T.T.
YTT
October 20, 2003

R. Crispino

RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700